

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 6757 of 1999

and

FIRST APPEAL NO. 6957 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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GUNAWANTBHAI JETHALAL PATEL

Versus

JANAKBHAI JETHABHAI PATEL  
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Appearance:

MR MC BHATT for appellant in F.A. No. 6757/99 and  
for respondent in F.A.No.6957/99.

MR MB GANDHI for appellant in F.A.No.6957/99 and for  
respondent in F.A. No.6757/99.  
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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 20/01/2000

COMMON ORAL JUDGEMENT

These two appeals have been filed against the  
judgment and decree dated 4th August 1999 passed in Civil

Suit No.5987 of 1987 by the City Civil Court, at Ahmedabad. The plaintiff as well as the defendant both are aggrieved and therefore, the two appeals.

Both the appeals have been admitted. When the matters came up for confirmation of the ad-interim order dt.22.10.99 passed in C.A.No.12428/99 in F.A.No. 6757/99, during the course of arguments, it was found that the trial Court has not recorded issuewise findings and it has been submitted on behalf of both the sides that the clear findings have not been recorded on all the issues. The parties have given in writing that the matters may be remanded back to the trial Court for hearing the arguments de-novo with a direction to decide the matter after recording clear findings issuewise. This application dated 20th January 2000 signed by both the sides shall remain on record.

In the facts and circumstances of this case, the judgment and decree dated 4th August 1999 passed by the City Civil Court, at Ahmedabad in Civil Suit No.5987 of 1987 is hereby set aside and the matter is remanded back to the trial Court for hearing the arguments of both the sides afresh and decide the case after recording clear findings issuewise and on all the issues in accordance with law. It goes without saying that the trial Court while hearing the matter afresh and passing the orders on that basis, shall not be influenced by anything which has been observed in the earlier order in favour or against either of the parties. Both these appeals are allowed accordingly.

In view of the orders as above, the Civil Applications Nos.12428 of 1999 and 12759 of 1999 filed in the respective appeals do not survive and the same are hereby disposed of accordingly. Ad-interim order dt. 22.10.99 passed in C.A.No.12428/99 stands automatically vacated and the Rule issued therein is hereby discharged. Notice issued in C.A.No.12759/99 is hereby discharged.

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Sreeram.